

1 IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY, PA.

2 CIVIL DIVISION

3 * * *

4 CHRISTINE BIROS,)
5 Plaintiff,)
6 vs.) No. #4486 of 2017
7 U-LOCK INCORPORATED)
8 Defendant.)

9 * * *

10 HEARD: 4/22/2022

11
12 BEFORE: Harry F. Smail, Judge

13 * * *

14 MOTION TO STRIKE

15 * * *

16 A P P E A R A N C E S

17 On behalf of the Petitioner:
18 J. Allen Roth Esquire

19 On behalf of the Respondent:
20 William E. Otto, Esquire

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1 4/22/2022 - 10:30 a.m.
2 P R O C E E D I N G S
3 * * *

4 THE COURT: We will call the case in
5 regard to Christine Biros an individual as plaintiff
6 versus U-lock Incorporated, a Pennsylvania corporation
7 as the defendant at the Court of Common Pleas level
8 #4486 of 2017. The court will note Mr. Roth that you
9 filed this under a caption indicating Christine Biros,
10 plaintiff v. Denise Shore, executor of the estate of
11 Alex Shore, Emory L. Moore, and Susan Stano co-executor
12 of the estate of Nicholas Shore, Cathleen S. Walter,
13 executor of the estate of Michael Shore, Cynthia Sear,
14 administrator of the estate of Ann Sear, and U-lock
15 Incorporated as a Pennsylvania Corporation, the
16 defendant at case #4886 of 2017. Although there was a
17 prior order of court that struck all of those parties.
18 So why did you file your motion in that fashion because
19 clear up through the Supreme Court filings it is
20 Christine Biros as the plaintiff and/or respondent and
21 U-lock Inc, a Pennsylvania Corporation, as the
22 petitioner or the defendant.

23 MR. ROTH: You are right, Your Honor. It
24 should have been done that way.

25 THE COURT: It should not have been done

1 that way. You filed this at the Prothonotary of Record
2 and indicated all of these parties and it is now on
3 record based on your filing as of March 17th of 2022. I
4 need an answer as to why you are basically violating my
5 order of court.

6 MR. ROTH: I am not wanting to violate
7 the order. It should have just been done the other way.
8 I am sorry about that. It should have just been done
9 the other way. You are right about that.

10 THE COURT: The problem is that it
11 includes parties that are not subject to the litigation
12 and gives the impression to the public and the
13 Prothonotary filed that they are still subject to the
14 litigation when in fact they were stricken because they
15 were not parties.

16 MR. ROTH: I understand.

17 THE COURT: I am going to order you to
18 file some kind of a corrective order that indicates that
19 the motion was filed under this caption that should have
20 been filed under the other caption and request that the
21 court order the Prothonotary to note that in the record.
22 So it could be a one page order with the way it was
23 filed under caption, what caption should be, and then an
24 order of court reflected below saying the Prothonotary
25 is to note this in the file by way of corrections.

1 MR. ROTH: That is fine.

2 THE COURT: So you do a cover motion and
3 then you ask for an order so that I can get that
4 corrected in the Prothonotary's file so should anyone
5 look for that file or by way of further appellant action
6 they will know these other parties are not subject to
7 the inclusion because I am concerned that you are going
8 to ask law clerks or the Prothonotary in different
9 stages that are going to say, "Well, this is incorrect
10 because you do not have all of the parties." Because
11 they are going to have problems with the record and
12 everything because they are going to say that you did
13 not serve due notice when in fact buried in the past is
14 my order of court that struck them off.

15 MR. ROTH: I understand that.

16 THE COURT: I just wanted you to note
17 that so if you can get that fixed some time by the
18 middle of next week so we can get that corrected.

19 MR. ROTH: That would be fine.

20 THE COURT: We are here on your motion
21 and I will let you go ahead and proceed. That is the
22 petition to strike the order of January 20th, 2022 and
23 all the other considerations. You are free to proceed.

24 MR. ROTH: Before the court is U-lock's
25 omnibus motion for relief based on this court rendering

1 an order without notice to it on January 20th, 2022.
2 That order released deeds that were in the court's
3 custody to Christine Biros. I am not sure how or why
4 this order was issued. No notice was provided to me and
5 it is unclear if counsel for Christine Biros asked for
6 this court to issue the order or if this court just
7 issued the order on its own. Either way U-lock has a
8 due process right to be noticed and to be heard. While
9 the Supreme Court denied leave to appeal it did not
10 remand the record to this court. The court was and
11 still is without jurisdiction.

12 When the court entered the order it
13 states that notice was given as required by Rule 236.
14 However, there is no CC at the bottom of the order and
15 my office did not receive it. Therefore, there is no
16 certification that it was served or mailed to my office.
17 We believe the notation in docket is in error. It was
18 mailed to us. If it was mailed to us, who mailed it to
19 us and where is the designation that that happened? So
20 we had no idea that this happened. Because we did not
21 know about the order and no notice was given to us that
22 anyone sought or planned on issuing an order we could
23 neither appeal or seek reconsideration. In the interim,
24 we received a stay from remanding the record from the
25 Supreme Court on March 16th, 2022 and they still have

1 the case. That order was served on this court by the
2 Supreme Court.

3 There are several reasons why this order
4 is prejudicing us. First, both this court and the
5 Superior Court held that the corrective deeds granted to
6 U-lock were valid and legally transferred ownership.
7 This court ruled that Christine Biros gets the property
8 through a constructive trust and the Superior Court
9 agreed. So the deeds cannot be from the original seller
10 to Christine Biros. They must be judicial deeds from
11 U-lock as trustee for Christine Biros to Christine
12 Biros. There are serious tax consequences for U-lock
13 and potential investor law suits for U-lock shareholders
14 as a result of the way this happened.

15 Simply put, we believe that the order was
16 improperly entered without notice to us. So we ask for
17 it to be stricken. Christine Biros can seek proper
18 judicial deeds as soon as the record is remanded. Those
19 deeds must be from U-lock as trustee in a constructive
20 trust to Christine Biros. Alternatively, if this court
21 feels that it does have jurisdiction it must serve the
22 order on my office under rule 236 and correct the docket
23 to show the date. That correction will allow U-lock to
24 appeal the order so the appeal court can determine if
25 the court had jurisdiction.

1 THE COURT: Mr. Otto, would you like to
2 respond to his motion and then we will move to your
3 motion once we are concluded here and you will have a
4 chance to respond.

5 MR. OTTO: Your Honor, I am pretty
6 disappointed in Mr. Roth. You could conclude from his
7 discussion that he has a real concern about legal
8 process and procedure. Unfortunately, he has failed in
9 his duty of candor to this court because he had not
10 explained why they want these deeds to be withdrawn and
11 new deeds to be ultimately reissued. The reason is
12 because approving his motion would effectively result in
13 returning the property to U-lock permanently and
14 depriving my client of the property both in title and
15 possession.

16 The reason for that is because in August
17 of last year Shanni Snyder, the sister of George and
18 Cash Snyder who are the controller parties of U-lock
19 filed an action in several district courts. As a result
20 of that she got a default judgement against U-lock for
21 unpaid wages. Now the interesting thing -- and I have a
22 couple of documents to deliver. This is all evidence,
23 Your Honor. None of this is contrived or made up. That
24 is the docket sheet for the case. This is Shanni
25 Snyder's complaint where she claims that she worked for

1 U-lock from 2016 through 2020 for ten hours a day from
2 the hours of 5 P.M. to 3 A.M. monitoring video cameras
3 on the property and that she is owed back wages in the
4 amount of over \$130,000. After she filed that case --
5 now one quick comment about her claims that she worked
6 for U-lock, Your Honor, during the trial Mr. Cash Snyder
7 was questioned. That is a copy of the relevant pages of
8 the transcript. If I could read this?

9 THE COURT: You may.

10 MR. OTTO: Question: To your knowledge
11 did anyone help Mr. Roth with the plea or the documents
12 that have been filed?

13 Answer: To my knowledge? No. I know
14 his paralegal and my sister and George have been
15 helpful.

16 Question: What involvement did your
17 sister have in all of this?

18 Answer: Just like you said helping with
19 the documents.

20 Question: But she is not a shareholder,
21 director, or officer, correct?

22 Answer: Correct.

23 Question: Is she like a friend to the
24 court?

25 Answer: No. She is loved one, I guess.

1 Question: What is her background?

7 Answer: None in the company.

8 If I may continue, You Honor?

9 THE COURT: You may.

10 MR. OTTO: Service was made on Mr. George
11 Snyder. I have proof of that service. As a result of
12 the failure to respond either by filing an answer to the
13 complaint or showing up for the dispute resolution Ms.
14 Snyder filed a motion for default judgment for back
15 wages and post- and pre- judgement interest in the
16 amount of over \$130,000. The second page of that, Your
17 Honor, is just the service. As a result of that motion
18 Judge Colville in federal court authorized the default
19 judgement and scheduled an evidentiary hearing. So an
20 argument was held.

21 If you turn to the very last page, Your
22 Honor, you will see the order remarks. Mostly it says
23 that the court notes it has reviewed the entire record
24 prior to hearing, law clerk administers oath to
25 plaintiff, plaintiff testifies, court finds that default

1 judgement is appropriate and applies reason. That is
2 the sole substance of the matter in the federal court
3 except that the court then entered an order granting Ms.
4 Snyder her claim for the \$130,000 but also awarded an
5 additional amount of liquidated damages of another
6 \$131,000. It is not clear to me how she got that but
7 nevertheless that is in her judgement. Again, Your
8 Honor, keep in mind that this was a default judgement by
9 their sister. So they got this judgment. Why would
10 they go to this trouble and why wouldn't Mr. Roth
11 explain this? Near the last of the docket sheet that
12 you have, Your Honor, you will see that she got an
13 abstract which she then transferred to Westmoreland
14 County. The abstract says at the very top -- first off,
15 it is a judgment for \$262,702 and \$402 in cost. It says
16 at the top pursuant to title 28 -- I will give you a
17 copy of this so you can follow along.

18 This judgement upon the filing of this
19 abstract and the manner in which a notice would be filed
20 under paragraphs 1 and 2 of 26C6323 creates a lien on
21 all real property of the defendant and has priority over
22 all of the liens and encumbrances that are protected
23 later in time. The lien created by this action is
24 effective unless satisfied for a period of 20 years.

25 Now this is where we get to the crux of

1 the problem, Your Honor. Back in May of 2019 after the
2 trial in which you had dismissed the estates part of the
3 arrangement with the estates is that they would pay
4 \$10,000 which they paid and which I applied to the
5 taxes. The second part of that was that they would
6 deliver 8 deeds total. Four of which confirmed the
7 title of the property in U-lock and four of which voided
8 U-lock's deeds and transferred the title directly from
9 the estates to my client.

10 Now the fly in ointment that Mr. Roth has
11 not explained are is that those deeds are all dated May
12 of 2019 which predate Shanni Snyder's judgement. So if
13 you approve their order and the title goes back to
14 U-lock that lien will stay on there no matter what else
15 happens. They have locked this up. Now if you go back
16 to Mr. Roth's motion for a moment. Mr. Roth has made
17 some interesting statements and when I initially read it
18 my thought was why would he assert the improper action
19 by a judge in which he asked to practice? Why would he
20 assert that there was some action on the part of the
21 judge that resulted in a loss of U-lock's civil rights?
22 The only thing I can say, Your Honor, is that you have
23 that in front of you.

24 I believe that Mr. Roth knew about this.
25 He was in a panic to get the motions in front of you to

1 change the deeds and he has failed to explain the full
2 background of why this is important to U-lock. My
3 recommendation to Your Honor is that I believe that you
4 could go one of three ways. Obviously you could approve
5 his motion. Second, you could deny it outright. Third,
6 which I suggest is that you take it under advisement and
7 hold it on the off chance that Mr. Roth might later want
8 to withdraw the motion. Primarily I think that Mr. Roth
9 has been involved in this. I think that there has been
10 a lot of improper activity in this case and I believe
11 that that judgement that Shanni Snyder got in court is a
12 fraud on the federal court and could potentially be a
13 fraud on this court.

14 I do not think it is my client's
15 responsibility to investigate that fraud. I think that
16 should go to law enforcement to investigate. I think
17 there are some serious problems with Mr. Roth's behavior
18 and I think there are some serious problems with Mr.
19 Snyder's behavior. Unfortunately as we heard during the
20 course of the trial the Snyders either do not have or
21 have effectively hidden all of their assets but Mr. Roth
22 has his own assets and I think there should be
23 sanctions. That is why I have submitted a motion of
24 sanctions to you.

25 A good part of Mr. Roth's motion should

1 be considered moot after he received the denial of his
2 petition to the Pennsylvania Supreme court. That was
3 issued in January of this year. He asked for a delay in
4 the remand so they could file an appeal to the U.S.
5 Supreme Court. Their time to do that was the close of
6 business on the 19th of this month. Unless Mr. Roth is
7 willing to stand up and say an appeal has been filed I
8 checked the docket yesterday and there is no U.S Supreme
9 Court appeal or petition.

10 THE COURT: Mr. Roth, did you file for
11 certiorari?

12 MR. ROTH: I have not to my knowledge.

13 THE COURT: So the order from the
14 Superior Court is a denial in January with leave of
15 court that gives you 90 days to file for writ of
16 certiorari to the U.S Supreme Court. You have not filed
17 that. After the denial your position is that it was not
18 appropriate to allow for the deeds to be ordered in the
19 fashion the court did in January 20th because they did
20 not submit the record back. You were denied your
21 appeal, correct?

22 MR. ROTH: I understand that.

23 THE COURT: You had the opportunity to
24 file a writ of certiorari to the U.S Supreme Court like
25 you represented to the Superior Court of Pennsylvania

1 that you were going to do. You did not do that. What
2 basis do you have for me to reverse or vacate my January
3 20th order other than your claim that because they held
4 the record I am outside of my jurisdiction which is not
5 accurate because the Common Court of Pleas can still
6 move forward on various issues to continue to protect
7 the parties relative to a prior action especially after
8 a denial of appeal is rendered by the last appellate
9 court in the Commonwealth of Pennsylvania.

10 MR. OTTO: Your Honor, if I may, I have
11 one other item. This probably has slipped your
12 recollection but when the arrangement was made with the
13 estates to issue those deeds, those deeds were reviewed
14 by both Mr. Roth and I. There were changes made as a
15 result of our request --

16 THE COURT: There was also a monetary
17 component of the \$10,000 which was provided, accepted,
18 cashed out, and received.

19 MR. OTTO: Yes. So Mr. Roth had the
20 opportunity to object to those deeds at the time. He
21 had the opportunity to object to the delivery of those
22 deeds or of the transfer of those deeds in his appeal
23 and he failed to do that. He is now trying to come back
24 and say we should have to go through another procedure
25 to open that up. of course with the judgement of the

1 federal court you can see what that would result in.

2 THE COURT: Mr. Otto, while I have your
3 attention, in January of this year did you and I have
4 any communication because I cannot recall any
5 communication?

6 MR. OTTO: You and I have never spoken
7 outside of this courtroom.

8 THE COURT: The only thing that we
9 received was notice from the Supreme Court that the
10 appeal was denied and then obviously the deeds that were
11 escrowed were now available for release.

12 MR. OTTO: My paralegal called your
13 office. I did not speak to you or your office. My
14 paralegal called and said we got the Supreme Court
15 decision. We would like to pick up the deeds. Do you
16 want us to submit an order or do you want us to send you
17 a letter? How do you want us to proceed? What was told
18 to us was to prepare an appropriate order and you would
19 review it. That is what we did. At no time did you and
20 I speak.

21 THE COURT: Your office fulfilled the
22 directive of my law clerk simply to submit an order from
23 you for me to consider unilaterally. Based upon that
24 any allegation of *ex parte* communication or misconduct
25 by this court are not valid.

1 MR. OTTO: I would agree with that, Your
2 Honor.

3 THE COURT: Then your belief or the other
4 assertion that it was *sua sponte* done by my own volition
5 is not accurate either because it was triggered by the
6 Supreme Court's denial from the Pennsylvania Supreme
7 Court it's denial and then you simply acknowledging
8 through your law clerk that now the escrow deeds can be
9 released. That was done by staff to staff not you and
10 I.

11 MR. OTTO: Correct, Your Honor.

12 THE COURT: Thank you. I wanted to make
13 sure we have that clear on the record.

14 MR. OTTO: Yes, sir. That is frankly why
15 Mr. Roth's allegation is so disturbing because it is a
16 serious charge. If the stakes were high enough I might
17 make that assertion. If this was a murder trial and I
18 thought that there something improper I might make that.
19 Short of that I would not put it in a pleading, Your
20 Honor.

21 THE COURT: I appreciate that. Thank
22 you, Mr. Otto. Mr. Roth, we are back to you then.
23 After the denial of your appeal by the Pennsylvania
24 Supreme Court and your position -- I am trying to wrap
25 myself around the argument why I do not have

1 jurisdiction at that point in time to release the deeds
2 which is the last component of the Common Pleas court
3 case because you had leave to file for certiorari to try
4 to establish a U.S. Supreme Court issue related to this
5 case but you did not even go to that measure to do it so
6 why would I vacate this order at this time? If you can
7 connect all that together for me and explain it I am
8 certainly available to take all of this under advisement
9 and proceed accordingly.

10 MR. ROTH: It was our belief that until
11 they remand the case to here that you did not have
12 jurisdiction. That was our belief. That is why we
13 filed --

14 THE COURT: They did not remand it here
15 because you requested that they held the record and stay
16 the record's transmission. That does not stop their
17 denial which they denied. They did not grant you the
18 appeal. So then do I -- I guess my question is do you
19 have any precedent law that would indicate then that the
20 Common Pleas court then could not close any remaining
21 legal loop holes that are still out there and are not
22 completed because you exhausted all of your appeals
23 through the Commonwealth of Pennsylvania?

24 MR. ROTH: I understand that. Could I
25 have one moment to consult with someone from U-lock?

1 THE COURT: That is fine. Let us take a
2 ten minute break and we will reconvene at 11 o'clock.

3 RECESS TAKEN AT 10:50 a.m.

4 COURT RECONVENED AT 11:00 a.m.

5 THE COURT: Mr. Roth, you have had an
6 opportunity then to speak to your client?

7 MR. ROTH: Yes. I did. The first thing
8 that I can say, judge, is that with regard to Shanni
9 Snyder I did not know anything about any of that stuff
10 that went into evidence here. I had nothing to do with
11 it. I did not know anything about it.

12 | THE COURT: How could you not know about
13 | it?

14 MR. ROTH: I did not.

15 THE COURT: You represent U-lock,
16 correct?

17 MR. ROTH: That is true.

18 THE COURT: They are the defendant in a
19 western district federal action and you did not know
20 about it?

21 MR. ROTH: I did not even know that they
22 were a defendant. I did not know that.

23 THE COURT: Are you the advertised
24 counsel for the corporation?

25 MR. ROTH: I do not know if I am

1 advertised.

2 THE COURT: Well, Shanni knows it,
3 correct? She knows that you are the attorney, right?
4 Did she serve you?

5 MR. ROTH: She probably does but I was
6 not served at all. I did not know anything about this
7 stuff. I really did not.

8 THE COURT: Then who got served then
9 Mr. Roth because I see that no one responded but the
10 Western District court was satisfied that it met all of
11 the federal rule requirements for notification and
12 service. So someone either had to sign it or a process
13 handler slapped it on someone's chest. You were not
14 made aware of any of that?

15 MR. ROTH: I did not know anything about
16 that until today.

17 THE COURT: Do you understand Mr. Otto's
18 position that that federal lien attaches immediately
19 should I have reversed or in other ways vacated my order
20 of court?

21 MR. ROTH: Well, I did not know that but
22 I understand what you are saying.

23 THE COURT: Do you understand that now?

24 MR. ROTH: Yes. I do.

25 THE COURT: Anything further you want to

1 make with regard to your argument?

2 MR. ROTH: No. That is all I have.

3 THE COURT: Mr. Otto?

4 MR. OTTO: If I could just add two more
5 things. As I am sure you are aware, when the Supreme
6 Court responded to Mr. Roth's request for a delay and
7 remand in the record at my request they directed U-lock
8 to pay the unpaid property taxes on the property. That
9 is the second page of that docket, Your Honor.

10 THE COURT: That is correct. That is the
11 March 16th, 2022 order by the Pennsylvania Supreme
12 Court.

13 MR. OTTO: Yes, sir. As of yesterday
14 those taxes remain unpaid and accruing interest. It has
15 been over three months.

16 THE COURT: Mr. Roth, in relation to your
17 representation it appears there is an amount of
18 \$20,151.02 in outstanding taxes that are owed. This
19 order was issued March 16th, 2022. We are now in April
20 22 of 2022. Why aren't the taxes paid?

21 MR. ROTH: We expect those to be paid
22 within 14 days, Your Honor. That is where we are.

23 THE COURT: No partial payment? Nothing
24 came in during the intervening time from the order apart
25 from the Pennsylvania Supreme Court?

1 MR. ROTH: I was just told that it will
2 be paid within 14 days.

3 THE COURT: Well Mr. Otto, there is your
4 answer. That is what they are claiming will occur.
5 Anything further Mr. Roth on your motion because I have
6 two motions from Mr. Otto relative to his presentation.

7 MR. ROTH: Nothing further.

10 MR. OTTO: I do have one last item in
11 this case, Your Honor. This is a *praecipe* in a matter
12 that Shanni Snyder currently has in this court. What
13 she says is pretty clear there. She says she is a
14 judgement creditor of U-lock and I presume that is based
15 on her federal court judgement that we have been
16 discussing. It also says -- it is represented that she
17 has a lien on the above referenced property. If you
18 look at the next page that is a legal description of the
19 legal property we have been discussing. As you know,
20 Your Honor, this is an invalid and untruthful filing.

24 MR. OTTO: Obviously she is not in the
25 court and this is not your case in front of you. I also

1 noticed you are a party.

2 THE COURT: I am.

3 MR. OTTO: I thought you might be
4 interested in understanding that she has committed
5 perjury by signing a filed document with this court.

6 THE COURT: Mr. Roth, do you want to even
7 address that relative to the Shanni Snyder case versus
8 your client, myself, other attorneys, the attorney
9 general of Pennsylvania. She has sued pretty much the
10 law here.

11 MR. ROTH: I am sorry. There is nothing
12 I can say about it.

13 THE COURT: You do not know if what she
14 represented to the court is verifiable and verified as
15 authentic for true representation to the court?

16 MR. ROTH: I do not know anything about
17 it.

18 THE COURT: She is not your client?

19 MR. ROTH: She is not. No.

20 THE COURT: Obviously Mr. Snyder that is
21 your sister. It may be wise to warn her that if these
22 things are filed in either a misrepresentative fashion
23 or an ignorant fashion or with intent to defraud anyone
24 relative to the cases that it could resolve not on the
25 civil division but it could resolve in the criminal

1 division. That being stated I am simply putting that
2 there for your consideration that certainly she should
3 consult with an attorney relative to that.

4 As far as what her designated category is
5 because she has a federal lien I do not know if it
6 allows for her to be the plaintiff party in this case or
7 not but if it is a falsehood that she bases it upon and
8 it comes to the surface because the courts are involved
9 and the county is involved through Frank Schiefer, the
10 reporter of deeds. There are mandatory reporting
11 requirements relative to misconduct even by a *pro se*
12 litigant that could result in a criminal review. I am
13 not sure if he would be interested in pursuing it but I
14 can tell you that Josh Shapiro and the Attorney
15 General's office if they think there is some malfeasance
16 may take it on themselves. I am just, again, trying to
17 articulate that for that information to be passed
18 forward. Okay? Mr. Otto, you have two motions so let's
19 begin.

20 MR. OTTO: Let me address the motion for
21 sanctions first. Although it is much thicker it is a
22 lot simpler. Basically, Your Honor, from the beginning
23 of this case all the way through to Mr. Roth's filing of
24 the petition for allowance with appeal to the Supreme
25 Court Mr. Roth has made allegations on behalf of his

1 client that my client has been involved in wrongdoing
2 and that the source of her funds renders her claim
3 invalid. At every stage the courts have said it is not
4 relevant and yet he has continued to assert that. My
5 client has been damaged by that and I would like the
6 court to entertain this motion for sanctions against
7 Mr. Roth and his client.

8 THE COURT: The sanction amount that you
9 are requesting is an amount of \$20,000 which appears to
10 be large. If you can give me some factual basis why, is
11 there some kind of attorney client billing or something
12 that is --

13 MR. OTTO: I have detailed billings, Your
14 Honor, that I would be happy to provide to the court. I
15 obviously do not have them with me.

16 THE COURT: I would ask that you submit
17 those especially with the portions highlighted as to the
18 substance of your request for sanctions and how they are
19 associated with it or actually reflective of your
20 billing because I must review that before I can even
21 entertain a sanctioned order as required. Whenever you
22 are done I will let you get the points in then I will
23 let him respond to this and then we will get to the
24 other matter.

25 MR. OTTO: I understand. As we all

1 understand our clients drive our general strategies. I
2 believe that these actions were taken by Mr. Roth at the
3 urging of his client so I would ask that the sanctions
4 be imposed not only against Mr. Roth but also against
5 George and Cash Snyder in their individual capacities.
6 None of this would have happened if they had not pushed
7 Mr. Roth to do it.

8 THE COURT: Anything further?

9 MR. OTTO: No, Your Honor. That is it.

10 THE COURT: Mr. Roth, you may respond to
11 the motion for sanctions.

12 MR. ROTH: Your Honor, the rule requires
13 we be given 28 days notice. We have an opportunity to
14 rescind what we have done in the past. We did not get
15 the 28 days notice in this case. Once we get that
16 notice we can decide whether we want to withdraw it or
17 not withdraw it. I believe that is how this works.

18 THE COURT: I believe he is talking about
19 a course of conduct that has continued throughout the
20 case even though various order from the court both at
21 this level and the Supreme Court have been rendered that
22 you keep raising issues that Judge Marsili way before I
23 even became involved in this case ordered you not to
24 consider relative to this case. Therefore, source of
25 funds albeit in any form or fashion had no relevance and

1 was ruled that way by Judge Marsili yet you continue to
2 raise it in your pleadings throughout. This is not an
3 isolated one time issue in the last 28 days that you can
4 just withdraw it. It has been going on since the
5 inception of the case. It is my understanding that the
6 first filing was in 2017 so we are five years into this.
7 I believe that the ruling by Judge Marsili was in 2018.
8 So that was four years ago when that ruling came out.
9 My question to you Mr. Roth is why should I not be
10 compelled to consider the sanctions?

11 MR. ROTH: Well, I believe we were
12 supposed to have an opportunity to withdraw those once
13 we get notice --

14 THE COURT: You can withdraw within the
15 timeframe of your last pleading whatever that might be
16 within 28 days. The question is although I have seen a
17 lot of -- I do not know how I am going to word this,
18 offensive or alarming items in your current motion but
19 that particular portion of it could possibly be
20 corrected as you are indicating but what about all the
21 dozen pleadings where your suggestion is that this is
22 ill-gotten monies utilized in the pursuit of an outcome
23 favorable to Christine Biros because that is what they
24 are asking for. They are saying this is -- should you
25 want to take it from Judge Marsili to the present so

1 they are really reflecting on a four year pattern of
2 behavior where you keep going back to the same libelous
3 or slander-oriented generation of funds because you are
4 perceiving it or representing that it was done in some
5 criminal fashion to achieve the amount of money tendered
6 to gain the deeds.

7 MR. ROTH: I do not really have an answer
8 for that, Your Honor.

9 THE COURT: That is why he is asking for
10 \$20,000 in sanctions because you were not deterred by an
11 order of court by Judge Marsili. I guess my question is
12 why should I not consider their request now for
13 sanctions which probably could have been filed back in
14 the 2018 and filed multiple ones each time that you did
15 it. Why he did not do that? I do not know. That might
16 mitigate whether or not he gets them. Did he waive
17 that?

18 MR. ROTH: I believe we have the
19 opportunity to withdraw.

20 THE COURT: The whole thing?

21 MR. ROTH: Yes. All of the things and we
22 have to be given 28 --

23 THE COURT: After the public has already
24 had access to look at it and review it and consider
25 whether or not they perceive the plaintiff, Christine

1 Biros, in a good light or a bad light? Then what? You
2 withdraw it and then it is as if it did not exist but
3 after that the smell is already out there. Just because
4 you got rid of the skunk does not mean that it did not
5 already happen.

6 MR. ROTH: We believe we should have the
7 right to withdraw for 28 days.

8 THE COURT: What is your basis for that?
9 Do you have case law or something that supports that?

10 MR. ROTH: I thought that the rule
11 indicated that?

12 THE COURT: A rule of civil procedure?

13 MR. ROTH: Rule 208 or --

14 THE COURT: You are the one who is
15 representing the fact. You tell me. I will be happy to
16 look the rule up.

17 MR. ROTH: I believe that Rule 208
18 indicates that we have 28 days to withdraw the
19 allegations. That is what I believe.

20 THE COURT: Do you know what subsection
21 that might be?

22 MR. ROTH: I do not know that off the top
23 of my head. No.

24 THE COURT: Well rule 208 has four
25 subsections. Would you like to look at the rule and

1 cite it for me?

2 MR. ROTH: I will look at it.

3 THE COURT: Come on forward. Here you
4 go. It begins over here and it goes over to here. If
5 you can find it in there I would certainly like to
6 review it.

7 MR. ROTH: May I step out into the hall?

8 THE COURT: No. Find it here.

9 MR. ROTH: If I could call my paralegal I
10 would try to determine where it is at. Can I step out
11 in the hall and call my paralegal?

12 THE COURT: No. There are some
13 assertions here that you have been using some other help
14 from Shanni Snyder or some person who is not licensed to
15 practice law. So if it is your position and you are the
16 licensed attorney and you are representing to me in this
17 court that there is a Pennsylvania rule of civil
18 procedure that directs me or binds me to allowing you to
19 withdraw out of the proceedings any erroneous thing that
20 you claim you put in relative to a matter that might
21 incur damages by way of slander or libel then show me.

22 MR. ROTH: I cannot find it.

23 THE COURT: Any other response you want
24 to make then other than your assertion on rule 208?

25 MR. ROTH: No. That is all.

1 THE COURT: Mr. Otto, you have a second
2 motion relative to possession, I believe?

3 MR. OTTO: Yes, Your Honor. First of
4 all, this is a declaratory judgement and under the
5 declaratory judgement act this court is entitled to
6 issue or impose any relief for the parties which it may
7 deem appropriate either before or after judgement. So
8 with that, what I would ask for from this court is an
9 immediate writ of possession so that we can take actual
10 control of the property. As you will note in my motion
11 number one, the taxes have not been paid. Supposedly
12 those are going to be taken care of in 14 days. We will
13 see.

1 possession of it, Your Honor.

14 THE COURT: Are you in possession of
15 Mr. Roth's response? To the form which I do not agree
16 that it is in the proper form by way of representation
17 that these are a preliminary objections they would be a
18 response to the motion for possession but the one that
19 caught my attention the most is the eviction requirement
20 relative to a declaratory judgement to possession and
21 the process attached there to. Our view and research is
22 that possession can be granted and then if they do not
23 leave that the successive action after that is then
24 eviction. Because you have to gain possession before
25 and be the holder of possession before eviction can be

1 instituted. If you are not in possession or there is a
2 dispute of title then you cannot get to eviction.

3 MR. OTTO: Your Honor, the rules of civil
4 procedure describe the action of ejectment and if we
5 were doing an action of ejectment then those are the
6 rules we have to follow. As I said the declaratory
7 judgement act gives you the jurisdiction and authority
8 to issue any reasonable relief. It is my view that
9 possession, if we have to, we could arrange for security
10 to go down and secure the property and take care of it
11 that way, Your Honor.

12 THE COURT: Anything further?

13 MR. OTTO: Mr. Roth has filed preliminary
14 objections. There is no legal authority cited in it
15 other than a citation to the rules. He has already
16 voiced his opinion. My assertion goes back to the
17 declaratory judgement act.

18 THE COURT: What is your position with
19 the form in compliance with the Pennsylvania rules of
20 civil procedure relative to preliminary objection
21 format? I mean, it does not appear to be anywhere
22 close to the requirement.

23 MR. OTTO: Notice to plead is never
24 required. The only thing about notice to plead is that
25 if it is on a pleading that the person to whom it is

1 delivered is required to respond in 20 days. I am not
2 required to put it on. I did not ask for a response
3 upon from him. If I wanted him to respond then I would
4 have put it on the notice to plead.

5 THE COURT: You simply noticed that you
6 are doing a motion.

7 Mr. OTTO: Correct, your Honor.

8 THE COURT: Then everyone comes to
9 motions and deals with your motion as you placed it out.

10 MR. OTTO: I do not believe there is a
11 requirement that a notice to plead be used. It is only
12 a requirement if there is a notice to plead that the
13 respondent must respond within 20 days.

14 THE COURT: Preliminary objections are
15 not the appropriate response to a motion. Obviously it
16 is a response to a motion in accordance to the
17 Pennsylvania rules of civil procedure then you can
18 request additional action as part of your pleading
19 within a second component therein, not a preliminary
20 objection to strike it as if it was part of a condensed
21 or multi-count complaint.

22 MR. OTTO: Yes, Your Honor.

23 THE COURT: Mr. Roth, we can go down
24 through what you filed.

25 Mr. ROTH: First of all, the petition

1 does not have a petition for verification on it. I
2 believe the rules require there to be a verification.

3 THE COURT: Mr. Otto, were these filed
4 together and there was one verification by Christine
5 Biros?

6 MR. OTTO: No.

7 THE COURT: Were you authorized, Mr.
8 Otto, by your client to request the possession of the
9 property?

10 MR. OTTO: Yes, Your Honor.

11 THE COURT: Are you representing that as
12 an officer of the court?

13 MR. OTTO: I am.

14 THE COURT: Ms. Biros, please stand and
15 raise your right hand.

16 CHRISTINE BIROS, having been
17 first duly sworn, was examined
18 and testified as follows:

19 * * *

20 DIRECT EXAMINATION

21 BY THE COURT:

22 Q. Did you authorize Mr. William E. Otto to file
23 these two motions?

24 A. I did.

25 Q. One for possession and one for sanctions?

1 A. Yes.

2 Q. Do you verify that any and all information
3 therein contained therein is the truth as far as you
4 know under penalty of the law?

5 A. Yes, sir.

6 Q. Did you review these motions before you came
7 here today and did you review everything that was in
8 them?

9 A. Yes, sir.

10 THE COURT: Thank you. You may be
11 seated. Mr. Roth, the rule may indicate that but if
12 there is an oversight that is not fatal and she is here
13 on the record after being duly sworn in and subject to
14 perjury she did verify to the court's satisfaction that
15 both pleadings are appropriate. Please proceed.

16 MR. ROTH: The next thing is that there
17 are significant property rights involved in the
18 potential liabilities.

19 THE COURT: Why are you filing this as
20 preliminary objections and not as a response to the
21 motion? Like, two separate responses to the motion.
22 Your format is inappropriate for review by the court.
23 My question to you is why did you file it as preliminary
24 objections. These are not preliminary objections. We
25 already had a trial, an outcome, and an opinion. We had

1 an appeal to the Superior Court and an appeal of the
2 Supreme Court. We are not at the early stage of any
3 litigation.

4 MR. ROTH: All I can say, Your Honor, is
5 that ejecting U-lock and the tenants will result in
6 major landlord-tenant lost property actions and that
7 will cause us a lot of problems.

8 THE COURT: Well, it might cause
9 Christine Biros a lot of problems as well if she is an
10 attached party to any litigation that is filed against
11 U-lock is sued or if U-lock is sued by multiple
12 plaintiffs or petitioners to the court and they add
13 Christine Biros as an additional defendant. She is not
14 necessarily escaping the hypothetical that might come,
15 correct?

16 MR. ROTH: Yes.

17 THE COURT: Anything else that you want
18 to address?

19 MR. ROTH: No, that is all.

20 THE COURT: Anything further, Mr. Otto?
21 Wait, sorry.

22 MR. ROTH: One more thing. With regard
23 to the clean up of the property, Your Honor. They have
24 contacted the North Huntington township and have begun
25 the process of doing the clean up. Now you cannot

1 remove vehicles without an authorization and the police
2 are going to help them make that happen over this
3 weekend is what I am told. Well, they are the ones that
4 initiated this process to make that it happen.

5 THE COURT: I am going to take all of
6 this under consideration. There is too much here for me
7 to rule from the bench. I have to look to any authority
8 that you have relative to what you requested. I have to
9 look to Mr. Otto. Mr. Otto has got to get me a
10 rendition of his billing to substantiate whether or not
11 a sanction is even something that is warranted at this
12 point in time. Are you of the position that if you get
13 the tags this weekend that at least the vehicles would
14 be removed off of the property?

15 MR. ROTH: Yes.

16 THE COURT: All of them? I do not know
17 how many there are.

18 MR. OTTO: Many.

19 MR. ROTH: What happened was they asked
20 the township to have the vehicles tagged and the police
21 are going out there to go do it this weekend is what we
22 have been told. Once they are tagged they can remove
23 the vehicle.

24 THE COURT: You might need to educate me
25 here on this because I try as much to know as much stuff

1 as possible. Doesn't the Department of Transportation
2 have to be there or can the township or municipal police
3 simply tag it on their own?

4 MR. ROTH: My understanding is that the
5 municipal police can do that and then it can be removed.

6 THE COURT: Is there some designated
7 place they have to go to per the Department of
8 Transportation's involvement?

9 MR. ROTH: Could I ask my client?

10 THE COURT: Stand up and raise your right
11 hand.

12 GEORGE SNYDER, having been
13 first duly sworn, was examined
14 and testified as follows:

15 * * *

16 DIRECT EXAMINATION

17 BY THE COURT:

18 Q. Can you clear this up for me?

19 A. There are certain vehicles on the property
20 that were abandoned. We have been trying to clean it up
21 for years. We know the township -- they did not
22 approach us, we approached them. We know they want it
23 to look nice. I asked them, "Our hands are kind of
24 tied. We cannot touch a titled vehicle."

25 He said, "Maybe see if the police will help

1 you. If they red tag that or yellow tag that then after
2 ten days the scrap company can take it to the scrap
3 yard. Otherwise, you will need a title to tow a vehicle
4 and transport it to the scrap yard.

5 Q. So they have to be declared by the tag as an
6 abandoned vehicle and then you can move them. Are the
7 ten days burned up so at this point they can be removed
8 this weekend?

9 A. That is my understanding. I spoke with the
10 officer yesterday and he said he would come out this
11 weekend and tag them. Then after 7 to 10 days we can
12 remove them.

13 Q. So you are not going to be to be removed this
14 weekend anyway?

15 A. No.

16 THE COURT: Mr. Otto, would you and your
17 client agree that if they get tagged and are scrapped
18 and removed that any of the proceeds from the scrap yard
19 would go to U-lock if they put all of the effort into
20 getting them off the property? I am not sure what would
21 get out of it.

22 MR. OTTO: They have cause my client so
23 much aggravation and so many legal fees I am not
24 inclined to be --

25 THE COURT: Well, if before you get

1 possession they removed them and the income derived from
2 scrapping the abandoned vehicles is theirs. You would
3 agree with that, correct?

4 MR. OTTO: Yes and no, Your Honor. Let
5 me explain something.

6 THE COURT: Sure.

7 MR. OTTO: Back shortly after the trial,
8 some time in 2019, we arranged for a site visit and we
9 took an environmental engineer with us. He went through
10 and wrote up an extensive report. If it was just
11 vehicles on the property, Your Honor, it might not be
12 that big of a deal but there is all sorts of waste, Your
13 Honor. There is municipal waste. There are barrels
14 that may contain oil. There is just a whole morass of
15 environmental problems there. If they get the money --
16 if I could believe that they would use it to clean up
17 the site that would be fine.

18 THE COURT: Your concern is that it is
19 even going to happen?

20 MR. OTTO: Yes, sir.

21 THE COURT: If it does not happen you
22 gain possession. Regardless of whether they tagged or
23 not you gain possession of them by the declaratory
24 judgement you are seeking if that is granted to you
25 after my review and under the advisement of this

1 hearing.

2 MR. OTTO: Yes, Your Honor. If I may,
3 Your Honor. These are the relevant provisions. That is
4 the statute of the declaratory action and that is the
5 rule and the rules of civil procedure.

6 THE COURT: Mr. Roth, I think that prior
7 to rendering a decision one way or the other if you get
8 things done within that timeline that any proceeds that
9 are generated are theirs but if they are not done within
10 the timeline and it should not go in your favor once
11 possession is taken whatever is there then becomes
12 available for the subsequent possessor to capitalize on.
13 The issue here is based on Mr. Otto's representation is
14 that there is probably a higher cost associated with the
15 clean up then what can be generated by selling or
16 scrapping and I am not just talking vehicles. I am
17 talking about a multitude of other things. Go through
18 your attorney first. Mr. Snyder wants to say something.

19 MR. SNYDER: I just wanted to explain to
20 you about the title and ownership of the car. The cars
21 do not belong to U-lock. Most of them are clients cars.
22 One may belong to John, one to Henry, one to Steven,
23 etc. When we tell this person who couldn't pay that you
24 have to get this car out of here they cannot move it
25 themselves without a title. They cannot put it on the

1 tow truck and take it. We will not really get proceeds.
2 They would have to then apply to PennDot and get a new
3 title. That is \$48 or something and most of them do not
4 have the money or else they would not have lost their
5 vehicle. They are willing to say just tag it, get rid
6 of it, part ways.

7 THE COURT: So you have releases from
8 owners of the vehicles to go ahead and dispose of them?

9 MR. SNYDER: Yes. If there is any money
10 to be made it is very inconsequential. \$200 a car or
11 something.

12 THE COURT: Then after you pay for the
13 tow truck and everyone else to get it out of there.

14 MR. OTTO: Your Honor, I have two
15 questions. I would ask Mr. Snyder to tell us who the
16 police officer was that he spoke to. Second, is to get
17 copies of the releases that he has received and that he
18 just represented that he has so that if the cars are
19 still there when we go to take possession we can deal
20 with that.

21 THE COURT: Mr. Snyder is shaking his
22 head affirmatively. Could you make copies of those and
23 have some verification of the tags and which officer
24 that you spoke with that is cooperating with your effort
25 to get those out of there. So I need the owner's

1 releases for the title, the cars that are already
2 tagged, and some kind of copy of the tag that you have.
3 I do not know if you have to do that through cellphone
4 photos and then print them something. Then the name of
5 the officer that you have been coordinating with to get
6 this done. I would ask that that be done immediately.
7 could you have that to Mr. Otto by close of business
8 Tuesday?

9 MR. SNYDER: Yes.

10 THE COURT: So 5 o'clock Tuesday which is
11 the 26th of April. Anything else from either constable
12 before I adjourn?

13 MR. OTTO: Nothing further.

14 MR. ROTH: No, Your Honor.

15 THE COURT: I will take it all under
16 advisement. I have everything before me and I will
17 review everything and make the appropriate rulings there
18 after.

19 MR. ROTH: My client is asking what the
20 timeframe is for --

21 THE COURT: If you were in here for
22 motion's court this morning it is going to be a couple
23 of day. We are trying to get everything together and I
24 will get something out on this but I cannot tell you a
25 defined day but it will be into the next week, probably

1 the following week.

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5 PROCEEDINGS ADJOURNED - 11:58 A.M.

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1 C E R T I F I C A T E
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5 I hereby certify that the proceedings are
6 contained fully and accurately in the notes taken by me
7 at the hearing of the within cause and that this copy is
8 a true and correct transcript of the same.

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11 James Matta Jr
12 James Matta, Official Court Reporter
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